E-Rate Central

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Winston E. Himsworth

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Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

Re: Supplementary Comment on Request for Review of a Decision of the Universal Service Administrator, CC Docket No. 02-6.

Billed Entity Name	Roosevelt Union Free School District
Billed Entity Number	123864
Funding Year	2006
471 Application Numbers	538495 and 538496

Supplementary Comment

On March 1, 2007, E-Rate Central filed an appeal on behalf of Roosevelt Union Free School District concerning USAC denials of E-rate funding for the stated reason that: "Consultant services were rendered prior to the signing of a consulting agreement or a Letter of Agency, authorizing the consultant to act on your behalf." The E-Rate Central appeal focused, in part, on the argument that the USAC denials were based, not on FCC rules relating to consultants, but on USAC's erroneous interpretation of the FCC's record retention rules set forth in Para. 48 of the Fifth Report and Order (FCC 04-190).

Upon further research, E-Rate Central has determined a further possible basis for these USAC denials that deserves comment.

In the *Project Interconnect Order* (DA 01-1620), citing rules adopted in the *Eighth Reconsideration Order*, the FCC noted "…that SLD was acting within its authority in requiring Project Interconnect to produce Letters of Agency from each of its members expressly authorizing the consortium leader to submit an application on its behalf." The SLD's requirement for LOAs, as reflected in the Reference Section of the SLD's Web site, has since been broadened somewhat to state:

> A consultant or anyone signing as the authorized person who is not a school or library employee should also have an LOA from the applicant expressly authorizing the consultant to represent the applicant. The

> consultant LOA must be signed and dated before the first action is taken by that Consultant on your behalf (such as filing the Form 470).[1]

If USAC's denials were based on this guidance, it is important to note that such guidance does not apply to the Roosevelt situation. As indicated by the quoted language — the only such mention of a consultant LOA requirement in the SLD's Web site Reference Section — the guidance applies only to a consultant signing as the "authorized person," i.e., the individual actually signing and filing an E-rate form such as a Form 470 or Form 471.

As a general policy, E-Rate Central does not sign E-rate forms on behalf of its clients. Specifically, in this case, E-Rate Central did not sign Roosevelt's FY 2006 Form 470 or its two FY 2006 Form 471s. Since E-Rate Central was not acting as Roosevelt's "authorized person," there is nothing in the SLD's guidance that suggests any need for a consulting agreement or LOA.

E-Rate Central continues to believe that there is no FCC rule requiring a consulting contract or LOA prior to the rendering of any services. As a practical matter, however, we note that Roosevelt explicitly recognized and authorized E-Rate Central's consulting role for FY 2006 by including supplementary E-Rate Central contact information in Item 12 of its Form 470 (signed six days before the Form 470 was posted).

We again respectfully ask the Commission to overturn USAC's denial of these applications. As an alternative, should the Commission determine that an actual rule was violated, we ask that rule be waived on a public interest basis for lack of clarity.

Sincerely,

Winston E. Himsworth

[1] See http://www.universalservice.org/sl/tools/reference/letters-of-agency.aspx.